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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,310	08/28/2003	Michael Robert Rice	6900/SYNX/JB	6977
41161	7590	01/07/2005	EXAMINER	
DUGAN & DUGAN, PC 55 SOUTH BROADWAY TARRYTOWN, NY 10591			VALENZA, JOSEPH E	
			ART UNIT	PAPER NUMBER
			3651	
DATE MAILED: 01/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/650,310	Applicant(s) RICE ET AL.	
	Examiner Joseph Valenza	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 7-9, 20-25 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-19, 26-32 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/13, 4/13 and 9/15</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 7-9, 20-25 and 33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 17, 2004.

2. Claims 1-6, 10-19, 26-32 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Bishop, Tonelli, Harper et al or Marchetti.

In Bishop, unload mechanism 22 unloads carrier 15 from conveyor 1. In Tonelli, unload mechanism 28 unloads carrier 88 from conveyor 6. In Harper et al, unload mechanism 38 unloads carrier 28 from conveyor 27. In Marchetti, unload mechanism 2,3 unloads carrier 1 from conveyor a.

With regard to claim 2, note controller 26 of Bishop, note controller 50 of Tonelli, note controller 58, 63 of Harper et al and note controller 4,5 in figure 1 of Marchetti.

With regard to claims 3, 6 and 15, all but Marchetti apply.

With regard to claims 11, 16-19 and 26-29, note column 5 lines 44-73 of Harper et al for load and unload by mechanism 38, 38a. With regard to claim 12, only Marchetti applies.

With regard to claim 31, rail 69, 77 or 80 of Harper et al is a shelf.

With regard to claim 32, note end effector 23 and linear (curvilinear) guide 26 of Bishop, end effector 38 and linear (curvilinear) guide 50 of Tonelli, end effector 38, 38a and linear (curvilinear) guide 58 of Harper et al and end effector 2 and linear (curvilinear) guide 4 or 5 of Marchetti.

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3. Claim 3 is rejected under 35 U.S.C. 112 for the following reason.

The claim is rejected under the second paragraph of 112 for being unclear. If claim 2 (from which claim 3 depends) requires the controller to raise the unload mechanism (which requires a velocity in the vertical direction), how can the unload mechanism have zero velocity or a negative or downward velocity as required by claim 3?

4. Webb, Wunderlich, Jonsson, Bornstein et al, Bornfleth, Kawamura et al and Waiono are pertinent.

5. Any inquiry concerning this communication should be directed to Joseph E. Valenza at telephone number (703) 308-2577. Amendments may be faxed to (703) 872-9306. My normal work week is Monday through Thursday.

A handwritten signature in black ink, reading "Joseph E. Valenza". The signature is written in a cursive, flowing style with a large initial "J".

JOSEPH E. VALENZA
PRIMARY EXAMINER